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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff, and

SHOTSAY POSCIRI,

Plaintiff-Intervenor,

vs.

UNITED FREIGHT AND TRANSPORT,
INC.,

Defendant.

Case No. 3:05-cv-0122-TMB

ANSWER TO FIRST AMENDED COMPLAINT IN INTERVENTION

Defendant United Freight and Transport, Inc., by and through its attorneys Dorsey & Whitney LLP, answers plaintiff-intervenor Shotsay Posciri's First Amended Complaint in Intervention as follows:

1. Defendant admits that the jurisdictional statutes cited by plaintiff-intervenor in paragraph 1 of the First Amended Complaint in Intervention are applicable to this matter.
2. Defendant admits the unlawful practices alleged in plaintiff-intervenor's First Amended Complaint in Intervention are alleged to have occurred within the jurisdiction of the United States District Court for the District of Alaska.

3. Defendant admits that Shotsay Posciri is a resident of the state of Alaska over the age of 18. Defendant further admits that 42 U.S.C. § 2000e-5(f)(1) grants Shotsay Posciri a right to intervene in this action. Defendant is without information sufficient as to form a belief as to the truth of any and all other allegations contained in paragraph 3 of plaintiff-intervenor's First Amended Complaint in Intervention and, as such, denies any and all other allegations contained in paragraph 3.

4. Defendant admits that the Equal Employment Opportunity Commission is an agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII. Defendant further admits that Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1) authorizes the Equal Employment Opportunity Commission to bring actions as specified in 42 U.S.C. § 2000e-5(f)(1). Defendant denies any and all other allegations contained in paragraph 4 of plaintiff-intervenor's First Amended Complaint in Intervention.

5. Defendant admits the allegations contained in paragraph 5 of plaintiff-intervenor's First Amended Complaint in Intervention.

6. Defendant admits the allegations contained in paragraph 6 of plaintiff-intervenor's First Amended Complaint in Intervention.

7. Defendant denies the allegations contained in paragraph 7 of plaintiff-intervenor's First Amended Complaint in Intervention.

8. Defendant denies the allegations contained in paragraph 8 of plaintiff-intervenor's First Amended Complaint in Intervention.

9. Defendant denies the allegations contained in paragraph 9 of plaintiff-intervenor's First Amended Complaint in Intervention.

10. Defendant denies the allegations contained in paragraph 10 of plaintiff-intervenor's First Amended Complaint in Intervention.

11. Defendant incorporates by reference its answers to paragraphs 1 through 10 set forth above.

12. Defendant admits that the jurisdictional statute cited by plaintiff-intervenor is applicable to this matter.

13. Defendant denies the allegations contained in paragraph 13 of plaintiff-intervenor's First Amended Complaint in Intervention.

14. Defendant denies the allegations contained in paragraph 14 of plaintiff-intervenor's First Amended Complaint in Intervention.

15. Defendant denies the allegations contained in paragraph 15 of plaintiff-intervenor's First Amended Complaint in Intervention.

16. Defendant denies the allegations contained in paragraph 16 of plaintiff-intervenor's First Amended Complaint in Intervention.

17. Defendant denies the allegations contained in paragraph 17 of plaintiff-intervenor's First Amended Complaint in Intervention.

18. Defendant incorporates by reference its answers to paragraphs 1 through 10 set forth above.

19. Defendant denies the allegations contained in paragraph 19 of plaintiff-intervenor's First Amended Complaint in Intervention.

AFFIRMATIVE DEFENSES

1. Plaintiff's claims are barred in whole or in part by applicable statutes of limitation.

2. Defendant's decision not to hire Ms. Posciri was based on legitimate business reasons and not because of Ms. Posciri's sex.

3. Defendant's actions were at all times undertaken in good faith.

4. Plaintiff's claims are barred due to a failure to exhaust administrative remedies.

5. Plaintiff's claims are barred in whole or in part by her failure to mitigate her damages.

6. Defendant reserves the right to assert additional defenses about which it becomes knowledgeable during the course of discovery.

WHEREFORE, defendant prays for the following relief:

- A. Dismissal of all claims against it with prejudice;
- B. An award of defendant's attorney fees and costs incurred in defending the claims against it; and
- C. Such other and further relief as the Court deems just and equitable.

DATED this 23rd day of May, 2006, at Anchorage, Alaska.

DORSEY & WHITNEY LLP
Attorneys for Defendant

CERTIFICATE OF SERVICE

This certifies that on this 23rd day of May, 2006, a true and correct copy of the foregoing document was served electronically on:

Teri Healy
Equal Employment Opportunity Commission
Seattle District Office
909 1st Avenue, Suite 400
Seattle, Washington 98104

Kenneth W. Legacki
425 G Street, Suite 920
Anchorage, Alaska 99501

s/ Wendy E. Leukuma

By: s/Wendy E. Leukuma
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